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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,871	01/28/2000	Christopher Evans	11714-P02	2773

7590 07/31/2002

Jerry Cohen, Esq.  
Perkins, Smith & Cohen, LLP  
One Beacon Street, Suite 30  
Boston, MA 02108-3106

EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/493,871

Applicant(s)

EVANS ET AL.

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. The affidavit under 37 CFR 1.132 filed 6/18/2002 is insufficient to overcome the rejection of claims 7-10 based upon new rejection as set forth in this Office action because: the affidavit fails to overcome the prima facie case established by the prior art now applied to the limitations of the claimed invention.

### ***Oath/Declaration***

1. This application has joint inventors, as a result the Language of the Declaration and Oath should reflect as such. For example "I hereby . . ." should be "We hereby . . .". Correction is requested on pages 1 through 3 of the Declaration and Oath.

### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title of this application is "Apparatus and method for soccer training and practice", however applicant is not claiming a method of playing or training. Therefore, "and method" should be taken out.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (4,147,353) in view of Sowards (4,720,095) and Ainscough et al (5,957,789).

Moore shows an apparatus for holding a soccer ball, comprising: a tie down stake (1) having a lower portion and a circular-shaped upper portion (see figure 1; a ring (2) on the circular-shaped upper portion, wherein the ring (2) is able to travel along a substantial portion of the circular-shaped upper portion; means for (6) securing a soccer ball (8) in a minimally interfering way with kicking, the securing means comprising straps (6a, 6b, 6c, and 6d) for holding the ball (8) tied to a tether line, wherein the tether line has one section which is elastic (4) attached to the swivel connection (3) and another section which is inelastic (5) attached to the securing means (straps 6), the tether line being tied at its ends to and extending between the ring and the means for securing (see figure 10); and means for enabling the tether line to rotate about its own axis (3). Moore as disclosed above does not show the stake to be spiraled, the means for securing the ball to be a net and the swivel means to be removable.

Sowards shows an apparatus for holding a soccer ball (110), comprising: a tie down stake (112) having a spiraled lower portion (114); a circular-shaped upper portion (118); a handle under the circular-shaped upper portion (120) which is projecting from the tie-down stake (112), wherein the handle projects from the stake; a ring (128) on the circular-shaped (118) upper portion, wherein the ring (128) is able to travel along a substantial portion of the circular-shaped (118) upper portion. The ball (110) is attached directly to the ring (128). Figure 10.

Ainscough et al shows a soccer training device, having a ball (12), a tether (16), a detachable link (20) and a hookable/removable swivel-eye bolt (26) attached to an upright (46),

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(column 2, lines 51-64 and column 3, lines 30-41), wherein the upright (46) is shown to be secured to the ground (59) in several different ways, wherein the securing means is a net (14), see figures 1, 4 and 5. It would have been obvious in view of the above teachings to one of ordinary skill in the art at the time the invention was made to have made the following modifications for the apparatus of Moore: 1) to have provided a spiraled stake with a handle to better secure the training device to the ground, 2) a removable swivel-eye bolt in order to provide an efficient connection and to allow the ball to not only rotate freely 360 degrees, but to prevent the cord from winding upon itself as it is taught by Schachner and Ainscough et al respectively; and 3) a net so that the ball is able move more freely.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schachner shows an apparatus for football kicking practice comprising an elastic cord (16) and a non-elastic cord (18) secured at one end to the ball (10) and at the other end to a stake (14), and a hookable/removable swivel eyebolt.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703 308 3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703 308 2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7768 for regular communications and 703 305 3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1148.



Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700

MA  
July 29, 2002